

## REMARKS/ARGUMENTS

### General Remarks Regarding Rejections in Previous Final Office Action

The Examiner's previous rejection of claim 15 under 35 USC § 112, second paragraph, was apparently withdrawn in the present Office action. Specifically, the Office stated that claim 15 was interpreted in light of the crystallinity given in the specification.

The Office also indicated that claim 19 was directed to a drawn yarn. This is correct and in no contradiction to claim 15 that is directed to an undrawn yarn, as the drawn yarn of claim 19 is fabricated from the undrawn yarn of claim 15. Clarification is respectfully requested.

With further respect to the Office's comments on claim 19 ("...The invention defined. In a product by process claim in a product Not a process..."), it is unclear what the Examiner wishes to express. The element of "delayed quenched" has been canceled from claim 15, and new claims 26 and 27 were added to include the "delayed quenched" element.

Still further, the Examiner previously rejected claim 15 as being an intermediate that would be anticipated by Mizumura et al. It is unclear to the applicant how such reasoning would lead to a proper anticipation rejection. For a claim to be anticipated by a reference, each and every element of the claim MUST be present in the reference. This is clearly not the case for claim 15. Yes, to obtain a drawn yarn of claim 19, one must use the undrawn yarn of claim 15. However, this does not logically entail that Mizumura teaches an undrawn yarn with the properties as claimed in claim 15.

Finally, the Examiner appears to argue that Mizumura teaches a dimensionally stable yarn as Mizumura's yarn has a low shrinkage in boiling water. First, it should be noted that the term "dimensionally stable" yarn is a term of the art, and not a colloquial shorthand for low shrinkage in boiling water. Second, the term "dimensionally stable" is expressly defined by the applicant (page 8, lines 26 *et seq.* - *Res ipsa loquitur* does not replace *vide specification*).

**35 USC § 102(a) or (e)**

Claim 15-21 were rejected under 35 USC § 102 (a)/(e) as being clearly anticipated by Mizumura et al. The applicant respectfully disagrees. Nevertheless, claim 15 was amended to even more clearly point out the patentably distinct nature for what protection is being sought for. As amended herein, claim 15 (and claims 16-18 and 26 by their dependence on amended claim 15) expressly requires among other things that the yarn is an "...undrawn dimensionally stable polyester yarn having a *dimensional stability of no more than 12 as defined by Ex + TS...*"

With respect to claim 15 (and claims 16-18 and 26), the Examiner relied on his previous rejection on column 6, lines 50-61 to establish that the reference teaches an undrawn yarn with an UE of 80% having a crystallinity of 25% or more. However, what was not addressed by the Examiner was the limitation of dimensionally stable. It should be noted that *"dimensionally stable" as used by the Examiner is inconsistent with its use in the art and its express definition in the specification.* To that end, claim 15 was amended to recite specific parameters for the claimed dimensional stability. *Should the Examiner insist that low shrinkage in boiling water is identical with the term dimensional stability as claimed, the applicant respectfully requests a statement on the record to that effect.*

Similarly, with respect to claims 19, 20, and 21, the applicant points out that each of these claims expressly require that the "...drawn dimensionally stable yarn [is] *formed from the undrawn dimensionally stable polyester yarn of claim 15...*"

Unless these limitations are taught by Mizumura (which they are NOT), claims 19-21 cannot be held anticipated by that reference. Should the Office maintain the position that each and every element of claim 19 is met by the Mizumura reference, the *applicant respectfully requests a limitation-by-limitation comparison between the pending claims and the '504 patent to expedite the discussion of Mizumura.* Such discussion should include a detailed *reasoning of the term "dimensionally stable" in view of Mizumura's disclosure.*

In view of the present amendments and arguments, the applicant believes that all claims are now in condition for allowance. Therefore, the applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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